

**APPENDIX A – Ninth Circuit Court of Appeals; Denial of Burgos-Valencia,
Leonardo Appeal**

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 19 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LEONARDO BURGOS-VALENCIA,

Defendant-Appellant.

No. 22-10288

D.C. No.
4:05-cr-00125-DCB-BPV-1
District of Arizona,
Tucson

ORDER

Before: CLIFTON, R. NELSON, and BRESS, Circuit Judges.

Appellee's motion (Docket Entry No. 9) to summarily affirm the district court's order denying appellant's motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i) is granted. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (stating standard). The record supports the district court's conclusion that appellant's pro se motion was largely duplicative of his prior counseled motion for compassionate release. The district court did not abuse its discretion in denying appellant's motion. *See United States v. Keller*, 2 F.4th 1278, 1281 (9th Cir. 2021).

AFFIRMED.

**APPENDIX B – Program Review and Miscellaneous Documents Pertaining to
Burgos-Valencia, Leonardo**

**Individualized Needs Plan - Program Review (Inmate Copy)**

SEQUENCE: 01223803

Dept. of Justice / Federal Bureau of Prisons

Plan is for inmate: BURGOS-VALENCIA, LEONARDO 12308-196

Team Date: 04-07-2023

Facility: FTD FORT DIX FCI

Proj. Rel. Date: 06-25-2024

Name: BURGOS-VALENCIA, LEONARDO

Proj. Rel. Mthd: FIRST STEP ACT RELEASE

Register No.: 12308-196

DNA Status: LOR02574 / 03-22-2011

Age: 70

Date of Birth: 03-03-1953

Detainers

Detaining Agency	Remarks
ICE	DEPORTATION, A#PENDING, MEXICO

Current Work Assignments

Fac	Assignment	Description	Start
FTD	YARD WE AM	YARD DETAIL-WEST AM	03-30-2023

Current Education Information

Fac	Assignment	Description	Start
FTD	ESL HAS	ENGLISH PROFICIENT	07-10-2014
FTD	GED SAT	GED PROGRESS SATISFACTORY	05-08-2014
FTD	GED XN	EXEMPT GED NON-PROMOTABLE	11-05-2018

Education Courses

SubFac	Action	Description	Start	Stop
DAL	C	BASIC COMPUTER CLASS	12-20-2018	03-27-2019
LOR	W	K. SHIELDS SPGED M-F 0830-1030	09-08-2017	10-10-2018
LOR	W	SPANISH GED M-F 0930 / SHIELDS	08-04-2014	09-08-2017
LOR	C	TYPING (KEYBOARDING)	04-27-2017	06-29-2017
LOR	C	ESL / K STOLZ / 730-930 M-F	11-18-2013	07-10-2014
LOR	C	EMPLOYMENT PREP/ERC/CR #1	11-27-2013	03-04-2014
LOR	W	ESL / K STOLZ / 730-930 M-F	12-20-2011	04-12-2012
LOR	C	NUTRITION/FITNESS INDEP STUDY	02-07-2012	02-27-2012
LOR	C	BUSINESS LAW INDEP STUDY	01-24-2012	02-08-2012
LOR	C	BUSINESS MANAGE INDEP STUDY	12-20-2011	02-06-2012
LOR	C	BUSINESS ACCOUNT INDEP STUDY	11-22-2011	01-17-2012
LOR	W	ESL/CASAS K.STOLZ 0830-0930	03-04-2011	12-20-2011
LOR	W	GED/EPC K.STOLZ 0730-0930	03-04-2011	12-20-2011
LOR	C	INTRO TO BUS. INDEP STUDY	11-22-2011	12-13-2011
LOR	C	INGLES CONVERSATIONAL/WED/CR.3	05-03-2011	10-04-2011
LOR	W	ESL/CASAS K.STOLZ 1030-1130	01-11-2011	03-04-2011
LOR	W	GED/EPC K.STOLZ 0930-1130	01-11-2011	03-04-2011
LOR	W	ESL/CASAS K.STOLZ 0830-0930	05-27-2010	07-20-2010
LOR	W	GED/EPC K.STOLZ 0730-0930	05-27-2010	07-20-2010
LOR	W	ESL/CASAS K.STOLZ 1330-1430	04-20-2009	05-27-2010
LOR	W	GED/EPC K.STOLZ 1230-1430	04-20-2009	05-27-2010
LOR	C	LEATHER THURS 1800-2000	10-01-2009	12-03-2009
LOR	C	CROCHET/ YARN; WEDNESDAY 1800	10-03-2009	12-05-2009
LOR	C	CERAMICS MON 1800-2000	09-29-2009	12-01-2009

Discipline History (Last 6 months)

Hearing Date	Prohibited Acts
** NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS **	

Current Care Assignments

Assignment	Description	Start
CARE1-MH	CARE1-MENTAL HEALTH	06-29-2010
CARE2	STABLE, CHRONIC CARE	11-12-2008

Current Medical Duty Status Assignments

Assignment	Description	Start
C19-QUAR	COVID-19 QUARANTINED	03-31-2022

**Individualized Needs Plan - Program Review (Inmate Copy)**

SEQUENCE: 01223803

Dept. of Justice / Federal Bureau of Prisons

Team Date: 04-07-2023

Plan is for inmate: BURGOS-VALENCIA, LEONARDO 12308-196

Assignment	Description	Start
LOWER BUNK	LOWER BUNK REQUIRED	04-16-2022
NO PAPER	NO PAPER MEDICAL RECORD	04-14-2022
REG DUTY W	REGULAR DUTY W/MED RESTRICTION	08-05-2022
YES F/S	CLEARED FOR FOOD SERVICE	08-05-2022

Current Drug Assignments

Assignment	Description	Start
ED NONE	DRUG EDUCATION NONE	11-06-2018

FRP Payment Plan**Most Recent Payment Plan****FRP Assignment: COMPLT FINANC RESP-COMPLETED Start: 08-15-2012**Inmate Decision: **AGREED** \$50.00 Frequency: **MONTHLY**Payments past 6 months: **\$0.00** Obligation Balance: **\$0.00****Financial Obligations**

No.	Type	Amount	Balance	Payable	Status
1	ASSMT	\$1,000.00	\$0.00	IMMEDIATE	COMPLETEDZ

**** NO ADJUSTMENTS MADE IN LAST 6 MONTHS ******FRP Deposits**

Trust Fund Deposits - Past 6 months: \$1,120.00 Payments commensurate ? N/A

New Payment Plan: ** No data **

Current FSA Assignments

Assignment	Description	Start
FTC ELIG	FTC-ELIGIBLE - REVIEWED	02-09-2023
N-ANGER N	NEED - ANGER/HOSTILITY NO	04-04-2023
N-ANTISO N	NEED - ANTI SOCIAL PEERS NO	04-04-2023
N-COGNTV N	NEED - COGNITIONS NO	04-04-2023
N-DYSLEX N	NEED - DYSLEXIA NO	04-21-2022
N-EDUC Y	NEED - EDUCATION YES	04-04-2023
N-FIN PV N	NEED - FINANCE/POVERTY NO	04-04-2023
N-FM/PAR N	NEED - FAMILY/PARENTING NO	04-04-2023
N-M HLTH N	NEED - MENTAL HEALTH NO	04-04-2023
N-MEDICL Y	NEED - MEDICAL YES	04-04-2023
N-RLF Y	NEED - REC/LEISURE/FITNESS YES	04-04-2023
N-SUB AB N	NEED - SUBSTANCE ABUSE NO	04-04-2023
N-TRAUMA N	NEED - TRAUMA NO	04-04-2023
N-WORK Y	NEED - WORK YES	04-04-2023
R-MIN	MINIMUM RISK RECIDIVISM LEVEL	04-04-2023

Progress since last review

Inmate has adhered to the programming recommendations as discussed during his previous Program Review. Inmate receives satisfactory work performance evaluations. He has not yet enrolled in any educational programs at FTD. He has not received any incident reports since last program review. His emergency contact information was reviewed and is current.

Next Program Review Goals

-Enroll in at least one educational or recreational program of his choosing and attend programs in a satisfactory manner. -Receive Good or better work performance evaluations by his assigned work detail supervisor. -Communicate at least three times per week with family and friends to maintain community ties. -Submit a cop out to health services during sick call to address any health-related issues. -Make timely payments towards any remaining financial obligations. Progress towards short term goals will be evaluated by his next regularly scheduled Program Review.

Long Term Goals

Enroll in, and complete, the following Evidence-Based Recidivism and Reduction programs prior to release to meet your individually identified needs: -NCCER Electrical Level 1, and/or NCCER Masonry Level 1, and/or DOL-sponsored Apprenticeship Program to address your Work need -Save \$25/month in the pre-release account. Prepare for reentry by discussing release plans with family and friends and provide the Unit Team with a viable release plan as soon as possible. The Unit Team recommends the inmate accomplish all of the



Individualized Needs Plan - Program Review (Inmate Copy)

SEQUENCE: 01223803

Dept. of Justice / Federal Bureau of Prisons

Team Date: 04-07-2023

Plan is for inmate: BURGOS-VALENCIA, LEONARDO 12308-196

aforementioned long term goals by 06/2025.

RRC/HC Placement

No.

Criminal alien releasing to custody of ICE.

Consideration has been given for Five Factor Review (Second Chance Act):

- Facility Resources : Inmate is expected to be deported to country of origin upon release
- Offense : Inmate is expected to be deported to country of origin upon release
- Prisoner : Inmate is expected to be deported to country of origin upon release
- Court Statement : Inmate is expected to be deported to country of origin upon release
- Sentencing Commission : Inmate is expected to be deported to country of origin upon release

Inmate is expected to be deported to his country of origin upon release.

Comments

Treaty Transfer: Eligible and interested.

The inmate was advised of his eligibility to participate in the International Prisoner Transfer Program; the inmate re-affirmed he is interested to participate in the program at this time.

FSA Recidivism Risk Assessment (PATTERN 01.03.00)

Register Number:12308-196, Last Name:BURGOS-VALENCIA

U. S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number: 12308-196	Risk Level Inmate....: R-MIN
Inmate Name	General Level.....: R-MIN (-15)
Last.....: BURGOS-VALENCIA	Violent Level.....: R-MIN (-6)
First.....: LEONARDO	Security Level Inmate: LOW
Middle.....:	Security Level Facil.: LOW
Suffix.....:	Responsible Facility.: FTD
Gender.....: MALE	Start Incarceration..: 10/06/2008

PATTERN Worksheet Summary

Item	- Value	- General Score	- Violent Score
Current Age	70	0	0
Walsh w/Conviction	FALSE	0	0
Violent Offense (PATTERN)	FALSE	0	0
Criminal History Points	0	0	0
History of Escapes	0	0	0
History of Violence	0	0	0
Education Score	NotEnrolled	0	0
Drug Program Status	NoNeed	-6	-3
All Incident Reports (120 Months)	0	0	0
Serious Incident Reports (120 Months)	0	0	0
Time Since Last Incident Report	172	0	0
Time Since Last Serious Incident Report	172	0	0
FRP Refuse	FALSE	0	0
Programs Completed	8	-9	-3
Work Programs	0	0	0
	Total	-15	-6

PATTERN Worksheet Details

Item: Programs Completed, Value: 8

General Score: -9, Violent Score: -3

Risk Item Data

Category - Assignment		- Start	- Stop
EDC	INGLESConv	05/03/2011 12:20	05/03/2011 12:20
EDC	WISE INBS	11/22/2011 07:57	11/22/2011 07:57
EDC	WISE BSAC	11/22/2011 08:05	11/22/2011 08:05
EDC	WISE BSMG	12/20/2011 15:09	12/20/2011 15:09
EDC	WISE BSLW	01/24/2012 07:42	01/24/2012 07:42
EDC	WISE NUTR	02/07/2012 08:06	02/07/2012 08:06
EDC	TYPING VT	04/27/2017 00:01	04/27/2017 00:01
EDC	COMM-F0700	12/20/2018 09:14	12/20/2018 09:14

Item: Work Programs, Value: 0

General Score: 0, Violent Score: 0

Risk Item Data

No Data

FSA Time Credit Assessment

Register Number:12308-196, Last Name:BURGOS-VALENCIA

U. S. DEPARTMENT OF JUSTICE**FEDERAL BUREAU OF PRISONS**

Register Number....: 12308-196	Responsible Facility: FTD
Inmate Name	Assessment Date.....: 03-25-2023
Last.....: BURGOS-VALENCIA	Period Start/Stop....: 12-21-2018 to 03-25-2023
First.....: LEONARDO	Accrued Pgm Days....: 1514
Middle.....:	Disallowed Pgm Days.: 41
Suffix.....:	FTC Towards RRC/HC..: 355
Gender.....: MALE	FTC Towards Release.: 365
Start Incarceration: 10-06-2008	Apply FTC to Release: Yes

Start	Stop	Pgm Status	Pgm Days
12-21-2018	07-17-2019	accrue	208
Accrued Pgm Days...: 208			
Carry Over Pgm Days: 0			
Time Credit Factor.: 10			
Time Credits.....: 60			

Start	Stop	Pgm Status	Pgm Days
07-17-2019	01-01-2023	accrue	1264
Accrued Pgm Days...: 1264			
Carry Over Pgm Days: 28			
Time Credit Factor.: 15			
Time Credits.....: 645			

Start	Stop	Pgm Status	Pgm Days
01-01-2023	02-11-2023	disallow	41

Incomplete needs assessment

Facility	Category	Assignment	Start	Stop
FTD	FSA	N-ANGER R	01-01-2023 0000	02-10-2023 0956
FTD	FSA	N-FM/PAR R	01-01-2023 0000	02-10-2023 0956
FTD	FSA	N-ANTISO R	01-01-2023 0000	02-10-2023 1005
FTD	FSA	N-COGNTV R	01-01-2023 0000	02-10-2023 1005

Start	Stop	Pgm Status	Pgm Days
02-11-2023	03-25-2023	accrue	42
Accrued Pgm Days...: 42			
Carry Over Pgm Days: 2			
Time Credit Factor.: 15			
Time Credits.....: 15			

--- FSA Assessment ---

#	Start	Stop	Status	Risk Assignment	Risk Asn Start	Factor
001	12-21-2018	01-18-2019	ACTUAL	FSA R-MIN	04-28-2021	1554 10

FSA Time Credit Assessment

Register Number:12308-196, Last Name:BURGOS-VALENCIA

U. S. DEPARTMENT OF JUSTICE**FEDERAL BUREAU OF PRISONS**

002 01-18-2019 07-17-2019 ACTUAL	FSA R-MIN	04-28-2021	1554	10
003 07-17-2019 01-13-2020 ACTUAL	FSA R-MIN	04-28-2021	1554	15
004 01-13-2020 07-11-2020 ACTUAL	FSA R-MIN	04-28-2021	1554	15
005 07-11-2020 01-07-2021 ACTUAL	FSA R-MIN	04-28-2021	1554	15
006 01-07-2021 07-06-2021 ACTUAL	FSA R-MIN	04-28-2021	1554	15
007 07-06-2021 01-02-2022 ACTUAL	FSA R-MIN	04-28-2021	1554	15
008 01-02-2022 07-01-2022 ACTUAL	FSA R-MIN	09-23-2021	0840	15
009 07-01-2022 12-28-2022 ACTUAL	FSA R-MIN	04-27-2022	1724	15
010 12-28-2022 06-26-2023 ACTUAL	FSA R-MIN	10-20-2022	1134	15

FSA Recidivism Risk Assessment (PATTERN 01.03.00)

Register Number: 12308-196, Last Name: BURGOS-VALENCIA

U. S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,

CR-05-00125-001-TUC-DCB (BPV)

10 Plaintiff,

ORDER

11 v.

12 Leonardo Burgos-Valencia,

13 Defendant.

14
15 On October 22, 2021, this Court considered and denied on remand the Defendant
16 Petitioner's Motion for Early Release under the First Step Act, 18 U.S.C. § 3582 (c)(1)(A).
17 (Order (Doc. 1492)).

18 The initial denial (Order (Doc. 1463) was appealed and voluntarily dismissed for
19 clarification that the standard of review was not limited by the policy statement in the
20 current version of U.S.S.G. § 1B1.13. *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir.
21 2021). In the determination denying relief on October 22, 2021, the Court considered a
22 supplemented record that presented all the variables urged now by the Petitioner in the new
23 Motion for Sentence Reduction under 18 U.S.C. § 3582(c)(1)(A) that he filed *pro se* on
24 July 29, 2022. (Order (Doc. 1492)).

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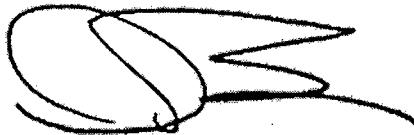
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1 On July 8, 2022, the appellate court affirmed this Court's October 22, 2021, denial
2 of compassionate release. (Mandate and Order (Doc. 1515)).

3 **Accordingly,**

4 **IT IS ORDERED** the Motion for Early Release under the First Step Act, 18 U.S.C.
5 § 3582 (c)(1)(A) (Doc. 1516) is **DENIED**.

6 Dated this 7th day of October, 2022.



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10 Honorable David C. Bury
11 United States District Judge
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FTDMK 540*23 *
PAGE 001 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 04-07-2023

* 04-07-2023
* 08:21:12

REGNO.: 12308-196 NAME: BURGOS-VALENCIA, LEONARDO

FBI NO.....: 980671FC7
ARS1.....: FTD/A-DES
UNIT.....: 10 GP
DETAINERS.....: YES

DATE OF BIRTH: 03-03-1953 AGE: 70
QUARTERS.....: Q01-173L
NOTIFICATIONS: NO

FSA ELIGIBILITY STATUS IS: ELIGIBLE

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.

HOME DETENTION ELIGIBILITY DATE....: 12-26-2023

FINAL STATUTORY RELEASE FOR INMATE.: 06-25-2025 VIA GCT REL
WITH APPLIED FSA CREDITS.: 365 DAYS
THE INMATE IS PROJECTED FOR RELEASE: 06-25-2024 VIA FSA REL

-----COURT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: ARIZONA
DOCKET NUMBER.....: CR 05-00125-001-TUC-
JUDGE.....: BURY
DATE SENTENCED/PROBATION IMPOSED: 10-06-2008
DATE COMMITTED.....: 01-08-2009
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$1,000.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----COURT OBLIGATION NO: 010 -----

OFFENSE CODE....: 391 21:846 SEC 841-851 ATTEMPT
OFF/CHG: 21:841(A) (1), 846&848-CONT CRIM ENT; 21:841(A) (1), (B) (1) (A) (VII)
&846 CONSP TO PWITD 5053.06 KILOGR MARIJ.CTS10&11 21:841(A) (1)
&(B) (1) (B) (VII) &18:2 PWITD MARIJ,A&A. (CTS 13-16). 21:841(A) (1)
&(B) (1) (C) & (D) 18:2&861(A) (1) &(B) PWITD MARIJ,A&A, EMPLOY MINOR
TO PWITD MARIJ (CTS)17,18,19,21).

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 288 MONTHS
TERM OF SUPERVISION.....: 5 YEARS

G0002 MORE PAGES TO FOLLOW . . .

FTDMK 540*23 *
PAGE 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 04-07-2023

* 04-07-2023
* 08:21:12

REGNO...: 12308-196 NAME: BURGOS-VALENCIA, LEONARDO

DATE OF OFFENSE.....: 06-14-2004

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 01-18-2022 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-02-2009 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 10-06-2008
TOTAL TERM IN EFFECT.....: 288 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 24 YEARS
EARLIEST DATE OF OFFENSE.....: 06-14-2004

JAIL CREDIT.....: FROM DATE THRU DATE
12-19-2004 10-05-2008

TOTAL PRIOR CREDIT TIME.....: 1387
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 1272
TOTAL GCT EARNED.....: 948
STATUTORY RELEASE DATE PROJECTED: 06-25-2025
ELDERLY OFFENDER TWO THIRDS DATE: 12-19-2020
EXPIRATION FULL TERM DATE.....: 12-18-2028
TIME SERVED.....: 18 YEARS 3 MONTHS 20 DAYS
PERCENTAGE OF FULL TERM SERVED...: 76.2
PERCENT OF STATUTORY TERM SERVED: 89.1

PROJECTED SATISFACTION DATE.....: 06-25-2024
PROJECTED SATISFACTION METHOD...: FSA REL
WITH FSA CREDITS INCLUDED....: 365

REMARKS.....: CMP UPDTD 4/17/12 TO REFLET GED UNSAT. O/JAQ; 05-22-14 COMP
UPDTD TO REF GED SAT~O/PRM;
01/31/20 GCT UPDATED PURSUANT TO FSA O/BRG.
1/18/22 UPDT GED, O/JAD

G0002 MORE PAGES TO FOLLOW . . .

FTDMK 540*23 *
PAGE 003 OF 003 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 04-07-2023

* 04-07-2023
* 08:21:12

REGNO...: 12308-196 NAME: BURGOS-VALENCIA, LEONARDO

----- CURRENT DETAINERS: -----

DETAINER NO...: 001
DATE LODGED...: 08-16-2010
AGENCY.....: IMMIGRATION & CUSTOMS ENFORCE
AUTHORITY....: ICE
CHARGES.....: DEPORTATION, A#PENDING, MEXICO

G0000 TRANSACTION SUCCESSFULLY COMPLETED

**APPENDIX C – United States District Court for the District of Arizona –
Denial of Burgos-Valencia’s, Leonardo Order Denying
Compassionate Release Motion**